In the High Court of Punjab & Haryana at Chandigarh.

` Civil Writ Petition No.8682 of 1987.

Date of decision:23-11-2007

The Hoshiarpur District Co-operative Milk Producers Union Limited and another.

...Petitioners.

Versus

The Presiding Officer and another.

...Respondents.

...

Coram: Hon'ble Mr.Justice K. C. Puri.

...

Present: Mr. D.S.Patwalia Advocate for the petitioners.

Ms.Maninder Advocate for the respondent No.2.

...

Judgment.

**K. C.Puri,J.**

Challenge in this writ petition is to the award dated 17.7.1987 passed by the Labour Court, Gurdaspur vide which the termination order of workman, respondent No.2 was set aside and he was re-instated with continuity of service and full back wages till re-instatement.

Workman Gurbachan Singh was appointed as unskilled worker with effect from 12.8.1971 by petitioner No.1. However, he was sent on notional deputation with petitioner No.2 with effect from 11.10.1979. However, his lien remained with petitioner No.1. The services of respondent

No.2 were terminated by petitioner No.2. The workman approached the Labour Court, Gurdaspur through reference under Section 10(1)(c) of the Industrial Disputes Act. The learned Labour Court vide award dated 17.7.1987 held that since workman Gurbachan Singh was appointed by petitioner No.1, therefore, petitioner No.2 had no legal authority to terminate the services of the workman and consequently his termination was held illegal and he was re-instated with full back wages.

Both the petitioners were dis-satisfied with the above-said award dated 17.7.1987.

The counsel for the petitioners has submitted that the services of workman have been terminated after due enquiry by the officer of petitioner No.2 whose designation is equivalent to that of appointing authority of workman. He has further submitted that in view of authority reported as **State of U.P and others Versus Ram Naresh Lal,** 1970 (3) Supreme Court Cases 173, the officer of the department with whom the workman is working equivalent to that of appointing authority of parent department has the authority to terminate the services after due enquiry. The counsel for the petitioners has also relied upon authority reported as **Jai Jai Ram Versus U.P.State Road Transport Corporation,** 1996(4) Service Cases Today 270.

The learned counsel for respondent No.2 has supported the award and has relied upon the following authorities:-

1. **Munna Lal Gupta Versus Delhi Municipal Corporation of Delhi,** 1967 S.L.R page 56.

2. **A. K. Srivastava Vs. State of Uttar Pradesh and**

**others,** 1980 (1) Services Law Reporter 368.

**3. Jagdish Prasad Gupta and others Vs. State of Uttar Pradesh and others,** 1980 (1) Services Law Reporter 396.

The short question involved in the present writ petition is whether the department to which the workman is sent on notional deputation has a right to terminate the services of workman or only parent department has the right to terminate his services.

The facts of the case are not disputed. The workman was employed by petitioner No.1 and was sent on notional deputation with petitioner No.2. Petitioner No.2 which is not a parent department of petitioner No.1 has terminated the services of workman. The Labour Court came to the conclusion that the Federation with whom the workman was on notional deputation cannot take disciplinary action and the said power vests in the employer. It has been further observed by the Presiding Officer of Labour Court that in view of authority reported in **Harish Chandra Pathak Versus Registrar, Co-operative Societies,Madhya Pradesh,** 1967 (Volume I),L.J.L.93, the power of dismissal or removal cannot be delegated by the employer to the department in which the workman is on deputation but the deputationist department can suspend the services of an employee. Authority reported as **A. K. Srivastava (**supra) has also been discussed and it has been held that the appointing authority alone has the right of removal of an employee. Authority reported as **Ram Naresh Lal,** (supra) is distinguishable as in that case, the employee was permanently transferred to another department. Authority **Jai Jai Ram** (supra) is also distinguishable as in that case, only suspension order was passed which was

challenged by the employee. In **Munna Lal Gupta**'s case (supra) relied upon by the counsel for the respondent No.2, it has been held that the power of dismissal or removal cannot be delegated and only the appointing authority can exercise such power.

I view of the above discussion, this writ petition is without any merit and the same stand dismissed.

November 23,2007. ( K. C. Puri )
Jaggi Judge